

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
FEB 07 2017
Clerk, U.S. District Court
District Of Montana
Missoula

KERMIT TY POULSON,

Plaintiff,

vs.

NORCO MEDICAL SUPPLY, and
HARRINGTON MEDICAL SUPPLY,

Defendants.

CV 17-05-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order, Findings and Recommendation on January 31, 2017, recommending denial of Plaintiff Kermit Poulson's ("Poulson") motion to proceed in forma pauperis in this matter. Poulson is not entitled to object to the Findings and Recommendations. *See Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998) (providing that an application to proceed in forma pauperis is not a nondispositive matter under 28 U.S.C. § 636 (b)(1)(A)). As a result, the Court reviews the Findings and Recommendation for clear error. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000) (citations omitted).

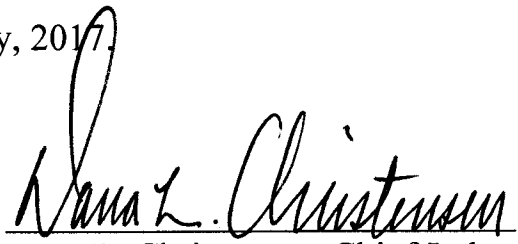
Having reviewed the Findings and Recommendation, the Court finds no clear error in the conclusion that Poulson's motion to proceed in forma pauperis should be denied and his federal claims be dismissed. The Court agrees with Judge Lynch that 42 U.S.C. §§ 1997d and 1997e, the statutory provisions under which Poulson brings his federal claims, are inapplicable to this action because Poulson is not presently a prisoner. Further, the Court finds no clear in Judge Lynch's finding that the claims brought under the Fourteenth Amendment should also be dismissed because Defendants in this case are not state entities. Lastly, the Court finds no clear error in the recommendation to decline to exercise supplemental jurisdiction over Poulson's state law claims because his federal claims lack merit.

Accordingly, there being no clear error in Judge Lynch's Findings and Recommendation, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendation (Doc.13) are ADOPTED IN FULL.

(2) Plaintiff Kermit Ty Poulson's request to proceed in forma pauperis under 28 U.S.C. § 1915(a)(1) (Doc. 1) is DENIED, and this action is DISMISSED.

Dated this 7th day of February, 2017.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge
United States District Court